IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

WEDNESDAY, THE 17TH OCTOBER 2007 / 25TH ASWINA 1929

WP(C).No. 7565 of 2007(A)

PETITIONER:

K.SUDHAKARAN,
CONDUCTOR, KERALA STATE TRANSPORT CORPORATION,
PARASSALA, THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.P.K.SURESH KUMAR
SMT.PRIYA VIJAYAN

RESPONDENTS:

---

1. KERALA STATE ROAD TRANSPORT CORPORATION,
REPRESENTED BY ITS MANAGING DIRECTOR,
THIRUVANANTHAPURAM.

2. THE CHAIRMAN AND MANAGING DIRECTOR,
KERALA STATE ROAD TRANSPORT CORPORATION,
THIRUVANANTHAPURAM.

3. THE EXECUTIVE DIRECTOR AND SECRETARY,
KERALA STATE ROAD TRANSPORT CORPORATION,
THIRUVANANTHAPURAM.

BY ADV. SRI.K.PRABHAKARAN, SC, K.S.R.T.C.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

- -

WP.(C) No. 7565 of 2007

- -

Dated this the 17th day of October, 2007

JUDGMENT

Petitioner was proceeded against for unauthorised absence consequent upon failure to report for duty upon the transfer from Thiruvananthapuram to Angamaly. Petitioner was visited with the punishment of barring an increment without cumulative effect and the period of absence was directed to be regularised as eligible leave. Statutory appeal was preferred as Ext.P4. Therein he prayed that the order of punishment may be set aside and the period of absence may be treated as duty for every purpose. By Ext.P5 the appeal was directed to be considered. By Ext.P6 the appellate authority rejected the appeal.

2. The only contention pressed by the learned counsel for the petitioner is that in the appellate order there was no reference at all of the case that the period of absence may be treated as duty. According to the petitioner it is true that he did not join duty, but after sometime he expressed his willingness that he is prepared to join duty, but he was not allowed to join duty.

3. It is seen from Ext.P4 that there was indeed a prayer apart from the prayer to set aside the order of punishment to treat the period

of absence as duty for all purposes. There is a case for the petitioner that he was willing to do duty. But it is pointed out by counsel for the respondents that the petitioner was willing to do only light duty. It is pointed out by the petitioner that the petitioner had met with five accidents and his physical and mental condition contributed a long way to the absence. Any way, I feel that this aspect is not seen considered at all.

Without expressing any view on the merits of the matter and leaving the authority totally free to take a decision in accordance with law and confirming the order of punishment imposed in Ext.P6, the matter is remitted back to the authority for considering whether atleast the period when the petitioner expressed his willingness to work can be treated as duty. A decision will be taken with opportunity of hearing to the petitioner within a period of two months from the date of receipt of a copy of this judgment. Only for that purpose Ext.P6 shall stand set aside. In all other regards I confirm Ext.P6.

(K.M. JOSEPH, JUDGE)

sb